

### **REMARKS**

This responds to the Office Action dated December 7, 2004.

No claims are amended, cancelled, or added. As a result, claims 1-20 remain pending in this patent application.

#### **§103 Rejection of the Claims**

Claims 1-10 were rejected under 35 U.S.C. § 103(a) for obviousness over Marcovecchio et al. (U.S. Patent No. 6,687,541). Applicant respectfully traverses.

Applicant's traversal is made on the grounds that the Marcovecchio et al. reference is disqualified by the American Inventors Protection Act (AIPA) of 1999 from being used as a reference against the present patent application under 35 U.S.C. § 102(e)/103. Applicant declares that, to the best of Applicant's knowledge, at the time the present invention was made, the present patent application and the application for the Marcovecchio et al. U.S. Patent No. 6,687,541 were owned by the same entity, that is, Cardiac Pacemakers, Inc. The application for Marcovecchio et al. U.S. Patent No. 6,687,541 was apparently filed on December 30, 2002, did not publish until May 8, 2003, and did not issue until February 3, 2004. By contrast, Applicant notes that the present patent application was filed on April 5, 2001, before the publication and issue dates of Marcovecchio et al. U.S. Patent No. 6,687,541. Applicant believes, therefore, that the Marcovecchio et al. U.S. Patent No. 6,687,541 is disqualified as a reference for purposes of section 102(e)/103(a) under 35 U.S.C. 103(c). Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of claims 1-10 of the present patent application insofar as it relies upon the Marcovecchio et al. reference.

#### **Allowable Subject Matter**

Applicant acknowledges the allowance of claims 11-20.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

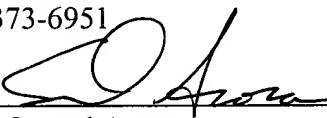
Respectfully submitted,

GARY T. SEIM

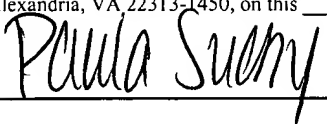
By his Representatives,

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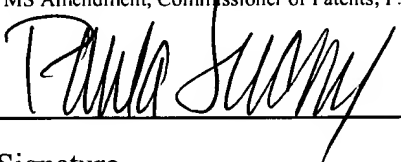
Date March 7, 2005

By   
Suneel Arora  
Reg. No. 42,267

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 7 day of March, 2005.



Name



Signature